

CONTRACT NUMBER: _-0

BETWEEN

MONTANA DEPARTMENT OF
PUBLIC HEALTH AND HUMAN SERVICES

AND

—

FOR

—

EFFECTIVE: _ through _

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CONTRACT FROM THE MONTANA
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

CONTRACT NUMBER

__-0

SECTION 1 PARTIES

This Contract is entered into by and between the Montana Department of Public Health and Human Services, Human and Community Services Division, Public Assistance Bureau, (hereinafter referred to as the "Department"), whose address and phone number are 111 North Jackson, P.O. Box 202925, Helena, Montana 59620-2925, 444-1788, and __, hereinafter referred to as the "Contractor"), whose nine (9) digit Federal ID Number, mailing address, phone number and fax number are: __, __, Montana 59__, phone: __, fax: __.

THE PARTIES AGREE AS FOLLOWS:

SECTION 2 PURPOSE

The purpose of this contract is to provide Temporary Assistance for Needy Families (TANF) Work Readiness Component (WoRC); Supplemental Nutrition Assistance Employment and Training Program services where appropriate; Refugee Employment and Training Program Services; and other TANF programs or projects in (list counties) Counties in accordance with federal and state laws. The objectives of these services are to provide case management and other services for TANF/WoRC participation activities, SNAP E&T along with needed supportive services, and RET activities.

The primary goal of WoRC, SNAP E&T, RET, and any special project is employment. Other goals most often identified with WoRC include:

- placement of participants in unsubsidized private sector employment;
- if private sector employment is not available, then unsubsidized public sector employment is the goal;
- retention of participants in unsubsidized private or public sector employment;
- increase in participant's earnings due to unsubsidized employment;
- reduction in number of families receiving TANF cash grants; and
- reduction in amounts of TANF grants.

For purposes of auditing procedures, the CFDA Number for these programs are 93.558 for TANF/WoRC, 10.561 for SNAP E&T, and 93.566 for RET.

SECTION 3 TERM OF CONTRACT

- A. The term of this contract for the purpose of delivery of services is from July 1, 2009 through June 30, 2010, unless terminated otherwise in accordance with the provisions of this contract. This contract may be extended for three (3) one (1) year periods if the parties agree to the extension prior to the end of the current term of this contract.
- B. The completion date of performance for purposes of issuance of final payment for services is the date upon which the Contractor submits to the Department such final reports as are required under this contract and are satisfactory in form and content as determined by the Department.
- C. The Contractor, after termination of this contract, remains subject to and obligated to comply with all legal and continuing contractual obligations arising in relation to its duties and responsibilities that may arise under the contract including, but not limited to, record retention, audits, indemnification, insurance, the protection of confidential information, recipient grievances and appeals and property ownership and use.

SECTION 4 SERVICES TO BE PROVIDED

The Contractor must provide the following services and responsibilities as listed separately for TANF/WoRC, SNAP E&T, RET, and other TANF programs or Projects as described in Attachment A, B, C, D, and E to this contract, which is hereby incorporated into this contract by reference herein.

Attachment A and the WoRC Services (SDA/Services) plan (Appendix A) list the services which must be provided for the WoRC program.

Attachment B, if applicable, and the SNAP E&T SDA plan (Appendix A) list the services which must be provided for the SNAP E&T program.

Attachment C, lists responsibilities/services for all parties.

Attachment D, if applicable, and the RET SDA plan (Appendix A) list the services which must be provided for the RET program.

Attachment E, if applicable, lists the services and parameters of other TANF programs and projects.

SECTION 5 CONSIDERATION AND PAYMENTS

- A. The total reimbursement provided to the Contractor for the purposes of this contract may not exceed **insert total amount.**

<u>Program</u>	<u>Amount</u>	<u>County</u>
WoRC:	\$	County Combination
SNAP E&T	\$	County Combination
RET	\$	County Combination

- B. Service areas for combination counties have a single dollar amount to be allocated across all counties based on need as determined by the County Director and the operator.
- C. Operator must accept all referrals.
- D. Operator's must bill on the reimbursement form provided by the Department and all expenditures for each separately funded line item listed above must be separated in operator's accounting systems.
- E. DPHHS expects to purchase certain services from Contractor through the contract. Contractor's employees and sub-contractor's employees shall not be considered DPHHS employees even though particular Contractor employee's may provide labor in furtherance of this contract. DPHHS is not responsible for contractor employee's payroll expenses, benefits, severance packages, retirement costs, or any other employment-related expenses. However, Contractor's ordinary and usual employment-related expenditures shall be included in budgets and cost allocation reports necessary to support the transfer of funds provided through this contract.
- F. The Contractor may not receive monies provided through this contract as reimbursement for the costs of services that are reimbursed from other sources.
- G. For purposes of this contract the word commingle means: Funds that are blended with other funding sources, and not kept segregated. For purposes of this contract, funds must be segregated for expenditure and accounting purposes. Separate records must be kept that identify the source and application of funds for federal and state sponsored activities. The records must be supported by source documentation. These contract funds cannot be commingled with any other monies for any purpose.

SECTION 6 REPORTS AND AMENDMENTS

- A. For the purpose of this Contract, the Contractor agrees to prepare and submit reports to the Department as provided in Attachment A, Section 1.L, and Section 3, which lists the reports required by the WoRC Program.
- B. For the purpose of this Contract, the Contractor agrees to prepare and submit reports to the Department, per SNAP E&T policy, for that Program.
- C. For the purposes of this Contract, the Contractor agrees to prepare and submit reports to the Department, per RET policy, for that Program.
- D. The criteria for evaluation are provided in the WoRC, SNAP E&T, and RET Contractor guidelines. Evaluation criteria for other TANF programs or projects are listed on report forms.
- E. For the purpose of this contract, Contractor agrees to prepare and submit project and other program reports as required by fiscal or program managers.
- F. Any adjustments, modifications or enhancements, shall be by written amendment, signed by authorized representatives of both parties and attached to this Contract.

SECTION 7 ADMINISTRATIVE AND PROGRAM EVALUATION REVIEWS

- A. The Department will periodically, but at least annually, conduct program compliance reviews which may include on-site examination of Contractor's services, program management and financial records to ensure compliance with the terms and conditions of this contract. The Department will supply Contractor with a written summary of all findings and recommendations.

- B. In the event the review indicates Contractor noncompliance with the terms and conditions of this contract, the Contractor will submit, within thirty (30) calendar days of receipt, a written program improvement plan detailing actions and time lines for correcting the deficiencies causing Contractor noncompliance. The Department shall respond in writing within fifteen (15) days accepting or rejecting the Contractor Program Improvement Plan and establish a date to evaluate progress of the Plan. If satisfactory progress is not made within the allotted time frame, then a formal corrective action amendment to this contract will take place. This will spell out the corrective action needed, time lines and reviews. If these actions are not met, then the contract will be terminated. Copies of any audits involving WoRC/Temporary Assistance for Needy Family block grant, Supplemental Nutrition Assistance Program funds, or Refugee Program funds will be supplied to the Department.

SECTION 8 RELATED PARTY TRANSACTIONS

The Contractor may not enter into any contract or other arrangement for the use, purchase, sale, lease or rental of real property, personal property or services funded with monies of this contract if an employee, administrator, officer or director of the Contractor may receive a financial or other valuable benefit as a result.

The Department may grant exceptions to this prohibition where it determines that the particular circumstances warrant the granting of an exception.

SECTION 9 CREATION AND RETENTION OF RECORDS

- A. The Contractor must create and maintain records of the services covered by this contract, including financial records, supporting documents and such other records as are required by law or other authority.
- B. WoRC or TANF records must be retained per the TANF policy contained in the TANF manual. SNAP E&T records must be retained for a period of three (3) years from the completion date of this contract. RET records must be retained per the RET policy contained in the Refugee manual. If any litigation, review, claim or audit is started before the expiration of the three year period, the records must be retained until all litigation, reviews, claims or audit findings involving the records have been resolved. All records and case files must be retained as long as a person remains eligible for TANF, SNAP E&T, or RET. The Department will receive such files upon termination of the contract or upon the end of the 3-year retention

for still TANF-eligible cases.

- C. The Contractor must provide the Department and its authorized agents with reasonable access to records the Contractor maintains for purposes of this contract and in order to perform audits or contract compliance reviews. The Contractor must make the records available at all reasonable times at the Contractor's general offices.
- D. Records developed for the purposes of delivery of services to recipients under this contract are the property of the Department and must be developed, maintained and disposed of as provided in this contract or as otherwise directed by the Department.

SECTION 10 ACCOUNTING, COST PRINCIPLES AND AUDIT

- A. The Contractor, in accordance with Mont. Code Ann. § 18-4-311, and other authorities, must maintain for the purposes of this contract an accounting system of procedures and practices that conforms to Generally Accepted Accounting Principles (GAAP), as interpreted by the Department and to any other accounting requirements the Department may require.
- B. The Department or any other legally authorized governmental entity or their authorized agents may at any time during or after the term of this contract conduct, in accordance with Mont. Code Ann. § 5-13-304 and 18-1-118, and other authorities, audits for the purposes of assuring the appropriate administration and expenditure of the monies provided to the Contractor through this contract and assuring the appropriate administration and delivery of services provided through this contract.
- C. The Contractor, for purposes of audit and other administrative activities, in accordance with Mont. Code Ann. § 18-1-118, and other authorities, must provide the Department and any other legally authorized governmental entity or their authorized agents access at any time to all the Contractor's records, materials and information, including any and all audit reports with supporting materials and work documents, pertinent to the services provided under this contract until the expiration of three (3) years from the completion date of this contract.

The State and any other legally authorized governmental entity or their authorized agents may record any information and make copies of any materials necessary for the conduct of an audit or other necessary administrative activity.

- D. The Contractor, if receiving \$500,000 or more in federal funds from any and all federal funding sources, must comply with the accounting and audit requirements of Federal Office of Management and Budget (OMB) Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations" and the provisions of OMB

Circular "A-122, Cost Principles for Non-Profit Institutions" concerning the use of the funds provided under this contract. Or, Cost Principles for Non-Profit Institutions" or Circular "A-87, Cost Principles for State, Local and Indian Tribal Governments" concerning the use of the funds provided under this contract.

- E. Contractors not meeting the \$500,000 federal threshold for an A-133 audit must submit their yearly 990 form, as filed with the IRS, to the Public Assistance Bureau Auditor.
- F. The Contractor must reimburse the Department or compensate the Department in any other manner as the Department may direct for any sums of monies determined by an audit to be owing to the Department.
- G. The Contractor is responsible for auditing the subcontractors. A-133 audits of subcontractors remain the responsibility of the Contractor, not the Department.

SECTION 11 ASSIGNMENT, TRANSFER AND SUBCONTRACTING

- A. The Contractor may not assign, transfer, delegate or subcontract, in whole or part, this contract or any right or duty arising under this contract unless the Department in writing approves the assignment, transfer, delegation or subcontract.
- B. An assignment, transfer, delegation or subcontract entered into by the Contractor must be in writing, must be subject to the terms and conditions of this contract, and must contain any further conditions as may be required by the Department.
- C. The Department's approval of any assignment, transfer, delegation or subcontract neither makes the Department a party to that agreement nor creates any right, claim or interest in favor of any party to that agreement against the Department.
- D. The Contractor must immediately notify the Department of any litigation concerning any assignment, transfer, delegation or subcontract.
- E. The Contractor must indemnify and hold the Department harmless, in accordance with the provisions of this contract regarding indemnification, with respect to any suit or action by any party to an assignment, transfer, delegation or subcontract.
- F. The Contractor is responsible for auditing the subcontractors. A-133 audits and/or submission of the IRS filed 990 of subcontracts remain the responsibility of the Contractor, not the Department.

SECTION 12 HOLD HARMLESS/INDEMNIFICATION

- A. The Contractor must indemnify, defend, and hold harmless the State of Montana, its officials, agents, and employees from any breach of this contract by the Contractor,

from any matters arising from the performance of this contract, or from the Contractor's failure to comply with any federal, state, and local laws, regulations, and ordinances applicable to the services or work to be provided under this contract.

- B. This indemnification applies to all claims, obligations, liabilities, costs, attorney's fees, losses or suits resulting from any acts, errors, omissions or negligence, whether willful or not, of the Contractor, its employees, agents, subcontractors, or assignees and any other person, firm, or corporation performing work, services, or providing materials under this contract.

SECTION 13 INSURANCE COVERAGE

THIS PROVISION IS TO BE USED IN ALL CONTRACTS EXCEPT FOR CONTRACTS FOR SERVICES TO BE DELIVERED BY THE UNIVERSITY SYSTEM OR ANOTHER STATE DEPARTMENT, SUCH AS THE DEPARTMENT OF LABOR,

A. GENERAL LIABILITY INSURANCE

1. The Contractor must maintain, at its cost, primary standard general liability insurance coverage. The general liability coverage must include claims arising out of contractual liability, the delivery of services, omissions in the delivery of services, injuries to persons, damages to property, the provision of goods or rights to intellectual property or any other liabilities, which may arise in the provision of services under this contract. The insurance must cover claims as may be caused by any act, omission, or negligence of the Contractor and/or its officers, agents, employees, representatives, assigns or subcontractors.
2. The Contractor must provide general liability insurance coverage inclusive of bodily injury, personal injury and property damage. The general liability insurance coverage must be obtained with combined single limits of \$1,000,000 per occurrence and \$2,000,000 aggregate per year, from an insurer with a Best's Rating of no less than A- or through a qualified self-insurer plan, implemented in accordance with Montana law and subject to the approval of the Department.
3. The state, its officers, officials, agents, employees, and volunteers, are to be covered as additional insured for liability arising out of activities performed by or on behalf of the Contractor, inclusive of the insured's general supervision of the Contractor, products and completed operations; and arising in relation to the premises owned, leased, occupied or used by the Contractor.

B. AUTOMOBILE LIABILITY INSURANCE

1. The Contractor must maintain, at its cost, automobile liability insurance

coverage. The insurance must cover claims as may be caused by any act, omission, or negligence of the Contractor and/or its officers, agents, employees, representatives, assigns or subcontractors.

2. The Contractor must provide automobile liability insurance inclusive of bodily injury, personal injury and property damage. The automobile liability insurance coverage must be obtained with combined single limits of \$1,000,000 per occurrence and \$2,000,000 aggregate per year, from an insurer with a Best's Rating of no less than A- or through a qualified self-insurer plan, implemented in accordance with Montana law and subject to the approval of the Department.
3. The state, its officers, officials, agents, employees, and volunteers, are to be covered as additional insured for liability arising out of activities performed by or on behalf of the Contractor, inclusive of the Contractor's general supervision, or arising in relation to automobiles leased, hired, or borrowed by the Contractor.

C. GENERAL REQUIREMENTS

1. The Contractor must provide to the Department a copy of the certificate of insurance showing compliance with the requisite coverage. All insurance required under this contract must remain in effect for the entire contract period. The Contractor must provide to the Department copies of any new certificate or of any revisions to the existing certificate issued during the term of this contract.
2. The Department may require the Contractor to provide copies of any insurance policies pertinent to these requirements, any endorsements to those policies and any subsequent modifications of those policies.
3. The Contractor's insurance coverage is the primary insurance in respect to the state, its officers, officials, agents, employees and volunteers. Any insurance or self-insurance maintained by the state and its officers, officials, agents, employees and volunteers is in excess of the Contractor's insurance and does not contribute with it.
4. Any deductible or self-insured retention must be declared to and approved by the Department. At the request of the Department, the insurer must:
 - a. reduce or eliminate such deductibles or self-insured retentions in relation to the state, its officials, employees and volunteers; or
 - b. Contractor must procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

SECTION 14 COMPLIANCE WITH LABOR LAWS

- A. The Contractor assures the Department that the Contractor is an independent contractor providing services for the Department and that neither the Contractor nor any of the Contractor's employees are employees of the Department under this contract or any subsequent amendment.
- B. The Contractor, at all times during the term of this contract, must maintain coverage for the Contractor and the Contractor's employees through workers' compensation, occupational disease, and any similar or related statutorily required insurance program. The Contractor must provide the Department with proof of necessary insurance coverage.
- C. If the Contractor has received, for workers' compensation purposes, an independent contractor exemption as to the Contractor, the Contractor must provide the Department with a copy of the exemption.
- D. The Contractor is solely responsible for and must meet all labor, health, safety and other legal requirements, including payment of all applicable taxes, premiums, deductions, withholdings, overtime and other amounts which may be legally required with respect to the Contractor and any persons providing services on behalf of the Contractor under this contract.
- E. The provision of this contract regarding indemnification applies with respect to any and all claims, obligations, liabilities, costs, attorney fees, losses or suits accruing or resulting from the Contractor's failure to comply with this section, or from any finding by any legal authority that any person providing services on behalf of the Contractor under this contract is an employee of the Department.

SECTION 15 COMPLIANCE WITH APPLICABLE LAWS, RULES AND POLICIES

THIS PROVISION IS TO BE USED IN ALL CONTRACTS.

The Contractor must comply with all applicable federal and state laws, executive orders, regulations and written policies, including those pertaining to licensing.

SECTION 16 FEDERAL REQUIREMENTS

- A. Generally
 - 1. The Contractor, in addition to the federal requirements specified in this contract and any attachments to this contract, must comply with the applicable federal requirements and assurances for recipients of federal

grants provided in the Federal OMB 424B (Rev. 7-97) form, known as "ASSURANCES - NON-CONSTRUCTION PROGRAMS", and in the Department's "CERTIFICATION OF COMPLIANCE WITH CERTAIN REQUIREMENTS FOR DEPARTMENT OF PUBLIC HEALTH & HUMAN SERVICES (6-99)". Variable -- Copies of the forms are included herein as Appendix A. Those assurance documents must be signed by the Contractor and submitted to the Department with or prior to the signing of this contract.

The OMB Form referenced above may be obtained through the website for the Office of Management of the Budget at WWW.WHITEHOUSE.GOV/OMB. At that website, click on "Grants Management" to access the page wherein the circulars may be called up and obtained by printing. The Department form referenced above may be obtained from the contract liaison.

The Contractor is responsible for determining which requirements and assurances are applicable to the Contractor.

2. The Contractor must ensure compliance of its subcontractors with the applicable federal requirements and assurances.

B. Political and Lobbying Activities

1. Federal monies received by the Contractor under the terms of this contract may not be used for any political activities by the Contractor, its employees or agents except as expressly permitted by state and federal law.
2. As required by 31 U.S.C. 1352 and 45 CFR 93.100 et seq., federally appropriated monies may not be used to influence or attempt to influence an officer or employee of any agency, a member of the U.S. Congress, an officer or employee of the U.S. Congress or an employee of a member of the U.S. Congress, in connection with the awarding of any federal contract, grant or loan, the making of any cooperative agreement or the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
3. If any funds other than federally appropriated funds are paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of the U.S. Congress, an officer or employee of the U.S. Congress or an employee of a member of the U.S. Congress in connection with this contract, the Contractor must complete and submit to the Department the federally required form, "STANDARD FORM LLL", variable -- which is hereby included in Appendix A.
4. Federally appropriated monies received through the programs of the Federal Departments of Health & Human Services, Education or Labor, as provided in Section 503 of H.R. 3424, appropriating monies for the Departments of

Labor, Health and Human Services, and Education, as enacted through Division B of H.R. 3194, "The Consolidated Appropriations Act of 1999", Pub. L. No. 106-113, and as may be provided by congressional continuing resolutions or further budgetary enactments, may not be used:

- a. to fund publicity or propaganda, or for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the U.S. Congress or a state legislature, except for presentations to the U.S. Congress or a state legislative body or one or more of its members as an aspect of normal and recognized executive-legislative relationships.
 - b. to pay the salary or expenses of any grant or contract recipient, or agent acting for the recipient, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or a state or local legislative body.
5. The Contractor must cooperate with any investigation undertaken regarding the expenditure of funds for political or lobbying activities.
6. The Contractor must ensure the compliance of any subcontractors with these restrictions and any related reporting requirements.

C. Federal Debarment Prohibition

1. The Department, in accordance with The Federal Acquisition Streamlining Act of 1994, P.L. 103-355, and Executive Orders #12549 and #12689, is prohibited from contracting with any entity that is debarred, suspended, or otherwise excluded from participating in procurement activities funded with federal monies. This prohibition also extends to contracting with an entity that has a director, officer, partner, person with beneficial ownership of more than 5 percent of the entity's equity, employee, consultant, or person otherwise providing items and services that are significant and material to the entity's obligations under its contract with the Department if that person has been debarred, suspended or otherwise excluded from participating in procurement activities funded with federal monies.
2. If the Department finds that the Contractor is not in compliance with subsection (1), the Department;
 - a. must notify the federal government;
 - b. may continue this contract unless the Secretary of the Federal Department of Health and Human Services directs otherwise; and
 - c. may only renew or otherwise extend the duration of the existing

contract with the Contractor if the Federal Government provides to the Department and to Congress a written statement describing compelling reasons that exist for renewing or extending this contract.

SECTION 17 CIVIL RIGHTS

A. Federal and State Authorities

The Contractor must comply with the applicable provisions of the Montana Human Rights Act (Mont. Code Ann. § 49-2-101 (2002), et seq.), Governmental Code of Fair Practices (Mont. Code Ann. § 49-3-101 (2002), et seq.) the Federal Civil Rights Act of 1964 (42 U.S.C. 2000d, et seq.), the Federal Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.), Section 504 of the Federal Rehabilitation Act of 1973 (29 U.S.C. 794), and the Federal Americans with Disabilities Act of 1990 (42 U.S.C. 12101, et seq.).

B. Discrimination

The Contractor, as provided at Mont. Code Ann. § 49-3-207 (2002), and other relevant authorities, may not discriminate in any manner against any person on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability or national origin.

C. Employment

The Contractor, as provided at Mont. Code Ann. § 49-3-207 (2002), must hire persons on the basis of merit and qualifications directly related to the requirements of the particular position being filled.

The Contractor, in accordance with Federal Executive Orders 11246 and 11375 and 41 CFR Part 60, must provide for equal employment opportunities in its employment practices.

SECTION 18 CONFIDENTIALITY AND HIPAA REQUIREMENTS

A. The Contractor must, during and after the term of this contract, protect confidential consumer and recipient information obtained and used in the performance of contractual duties and responsibilities under this contract in accordance with applicable legal and policy authorities.

B. All material and information containing consumer and recipient personal information provided to the Contractor by the Department or acquired by the Contractor on behalf of the Department, whether verbal, written, magnetic media, or in other forms, is to be regarded as confidential information and may only be used or disseminated by the Contractor, its subcontractors, or agents for the purposes

allowed for under this Contract and any governing legal and policy authorities.

- C. The Contractor, in relation to individually identifiable health information, must comply with the privacy requirement of the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996 and the regulations implementing that requirement at 45 CFR Part 160 and Subparts A, C and E of Part 164 as they may be applicable to the Contractor and the services provided through this Contract. Appendix A to this contract provides information as to where the Contractor may access the relevant HIPAA legal authorities and the interpretative direction provided by the federal government. The Department's Certification Form signed by the Contractor and incorporated as an attachment to this Contract provides for the Contractor's certification of its determination as to whether it is legally subject to the HIPAA privacy requirements and, if subject to the HIPAA, certification of its determination that it is fully in compliance with HIPAA.
- D. The Contractor must notify the Department in writing within 5 work days in the event that: 1) a complaint is lodged with the Office of Civil Rights (OCR) of the Department of Health and Human Services alleging it determines that the Contractor is not in compliance with HIPAA; 2) the Office of Civil Rights (OCR) of the Department of Health and Human Services determines that the Contractor is not in compliance with HIPAA; or 3) an administrative action or litigation is initiated against the Contractor based on any legal authority pertaining to the protection of confidential information. The Contractor must provide with any notice a copy of the relevant administrative complaint, determination, or legal complaint.
- E. Failure of the Contractor to be in compliance with this provision, the Department's policies protecting confidential information, or federal and state legal authorities, inclusive of HIPAA, governing the protection of confidential information is cause for termination of this Contract by the Department.

SECTION 19 DEPARTMENTAL GUIDANCE

THIS PROVISION MAY BE USED WHEN DESIRABLE.

The Contractor may request from the Department guidance in administrative and programmatic matters that are necessary to Contractor's performance. The Department may provide such guidance as it determines is appropriate. Guidance may include providing copies of regulations, statutes, standards and policies that are to be complied with under this contract. The Department may supply essential interpretations of such materials and this contract to assist with contract compliance by the Contractor. The Contractor is not relieved by a request for guidance of any obligation to meet the requirements of this contract. Legal services will not be provided by the Department to the Contractor in any matters relating to this contract.

SECTION 20 RECIPIENT GRIEVANCES AND APPEALS

- A. The Contractor must inform applicants for and recipients of services provided through this contract of any right there might be to present grievances to the Contractor and the Department or to receive a fair hearing.
- B. If an appeal for a fair hearing is filed, the Contractor must appear, if requested by the Department, to present evidence in any hearing that may be held.
- C. The Contractor, as directed by the Department, must provide services in accordance with the decision in a fair hearing concerning services provided by the Contractor to a recipient of services.

SECTION 21 PUBLICITY

- A. All public notices, information pamphlets, press releases, research reports, posters, public service announcements, web sites and similar modes of presenting public information pertaining to the services and activities funded with this contract prepared and released by the Contractor must include the statement:

"This project is funded (in part) under a contract with the Montana Department of Public Health and Human Services. The statements herein do not necessarily reflect the opinion of the Department."

- B. As provided in Section 507 of H.R. 3424, appropriating monies for the Departments of Labor, Health and Human Services, and Education, as enacted through Division B of H.R. 3194, "The Consolidated Appropriations Act of 1999", Pub. L. No. 106-113, and as may be provided by congressional continuing resolutions or further budgetary enactments, all statements, press releases, and other documents or media pieces made available to the public describing the services provided through this contract, funded in part or in whole with federally appropriated monies received through the programs of the Federal Departments of Health & Human Services, Education or Labor, must state the percentage and the monetary amount of the total program or project costs funded with federal monies and the percentage and the monetary amount of the total costs funded with nongovernmental monies.
- C. All statements, press releases, and other documents or media pieces made available to the public describing the services provided with monies received through this contract must be reviewed and approved by the Department prior to use, publication or release.

SECTION 22 PROPERTY

- A. For purposes of this provision the following definitions based on the pertinent

federal regulations apply:

"Equipment" means tangible nonexpendable personal property, including exempt property, charged directly to the contract having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit unless lower limits are otherwise established.

"Intangible property" means, but is not limited to, trademarks, copyrights, patents and patent applications and such property as loans, notes and other instruments of property ownership, whether considered tangible or intangible.

"Personal property" means property of any kind of property except real property. It may be tangible, having physical existence, such as equipment and supplies, or intangible, having no physical existence, such as data, copyrights, patents or securities.

"Property" means, unless otherwise stated, real property, equipment, and intangible property.

"Real property" means land, including land improvements, structures, and appurtenances thereto, but excludes movable machinery and equipment.

- B. Property to be used for the purposes of carrying out the duties and responsibilities provided for in this contract may be purchased with funds from this contract only if authorized by the Department through the terms of this contract.
- C. Property purchased with federal funding must be purchased, managed and disposed of in accordance with the pertinent provisions at 74 CFR §§ 74.32, 74.34, 74.35, 74.36, and 74.37 and 92 CFR §§ 92.31, 92.32, 92.33 and 92.34.
- D. At such time as the Contractor no longer contracts to deliver services to the Department or as directed by the Department during the term of the contract, the Contractor agrees to deliver, as may be required by law or as may be directed by the Department, title to and possession of any property purchased with contractual monies to the Department or to any entity designated by the Department.
- E. All patent and other legal rights in and to inventions arising out of activities assisted by funds from this contract must be available, in accordance with 37 CFR Part 401 and any other applicable legal authority, to the public for royalty-free and nonexclusive licensing. The Contractor must notify the Department promptly in writing of any invention conceived or actually reduced to practice in the course of performance of this contract.
- F. The Department and any federal agency from which funds for this contract are derived have, in accordance with 45 CFR § 74.36 and 45 CFR § 92.34, a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use and

authorize others to use for Department and agency purposes any written, audio or video material developed under this contract.

- G. If the Contractor purchases \$250 or more any materials or items of personal property for the conduct of business generally or for the provision of services under this contract, and if the Contractor purchases such materials or items with funds the Department pays under this contract, then each such material or item of personal property shall become the sole property of the Department.
- H. The Contractor shall maintain records describing each such item of personal property purchased throughout the contract period and its current location. Upon request, the Contractor shall make such records available to the Department and shall allow the Department to verify such records through physical inventory during the contract period.
- I. The Contractor shall maintain throughout the contract period an inventory of each such item of personal property purchased throughout the contract period which shall describe each of item, the date when and place where it was purchased, its purchase price and its current location. Assurance of the existence of this list must be made to the Department annually and the list and items on the list may be reviewed during Department monitoring visits.
- J. Upon termination of its contractual relationship with the Department, the Contractor shall turn over to the Department or a designee of the Department possession of and title to each such material and item of personal property purchased at a price of \$250 or more with funds the Department paid to the Contractor under this contract.
- K. If any materials or items of personal property referred to above were purchased with non-contractual funding as well as contractual funding, that each must be maintained on the inventory referred to above with the respective funding amounts denoted. The proportionate value of the contractual contribution must be compensated to the Department or its designee either through a payment of that amount or through the provision of further personal property items.

SECTION 23 ACCESS TO PREMISES

The Contractor must provide the State of Montana and any other legally authorized governmental entity, or their authorized representatives, the right to enter at all reasonable times the Contractor's premises or other places where contractual performance occurs to inspect, monitor or otherwise evaluate contractual performance. The Contractor must provide reasonable facilities and assistance for the safety and convenience of the persons performing those duties. All inspection, monitoring and evaluation must be performed in such a manner as not to unduly interfere with contractual performance.

SECTION 24 CONTRACT TERMINATION

- A. The Department may immediately terminate the whole or any part of this contract for failure to perform the contract in accordance with the terms of the contract and other governing authorities.
 - 1. If there is no exigency or risk of harm to persons from continued performance, the Department, in its discretion, may impose penalties and/or provide notice to the Contractor of the failure to perform and allow the Contractor 30 days during which to cure the failure.
 - 2. Failure to perform includes, but is not limited to, failure to:
 - a. perform the services within the time limits specified in this contract;
 - b. perform any of the requirements of this contract;
 - c. perform its contractual duties or responsibilities in accordance with the terms of the contract or any other authority, including statute, rules, or policy that govern the standards for performance; or
 - d. comply with any law, regulation or licensure and certification requirement.
- B. The Department may terminate the whole or any part of this contract when federal or state funding for this contract becomes unavailable for any reason. The Department must give notice to the Contractor at least thirty (30) days prior to the effective date of termination.
- C. Either party may terminate this contract without cause. The party terminating this contract must give notice of termination to the other party at least (30) thirty days prior to the effective date of termination.
- D. Notice of termination must be given in writing.
- E. Notice of termination given to the Department by the Contractor may only be revoked with the consent of the Department.
- F. Upon contract termination or non-renewal of this contract, the Contractor must allow the Department, its agents and representatives full access to the Contractor's facilities and records to arrange the orderly transfer of the contracted activities.

SECTION 25 REGISTRATION WITH THE SECRETARY OF STATE

Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with sections 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://sos.mt.gov>.

SECTION 26 REGISTRATION OF OUT OF STATE ENTITIES

A business that is incorporated in a state other than Montana or in a foreign country and that is conducting business in Montana may be required by 35-1-1026 and 35-8-1001, MCA, to register with the Montana Secretary Of State Office. Further information concerning these requirements may be obtained through the Business Services Division of the Montana Secretary Of State's Office at <http://sos.mt.gov/BSB/index.asp> or by [calling 406.444.3665](tel:406.444.3665).

SECTION 27 TECHNOLOGY ACCESS FOR PERSONS WHO ARE BLIND OR VISUALLY IMPAIRED

Information technology equipment and software for use by employees, program participants, or members of the public purchased with monies derived from this Contract must provide persons who are blind or visually impaired with access, including interactive use of the equipment and services that is equivalent to that provided to persons who are not blind or visually impaired. The requirements of this provision are not applicable to the expenditure of monies derived through a standardized rate reimbursement system.

SECTION 28 TOBACCO-FREE WORKPLACE AND OTHER RESTRICTIONS

The Contractor must provide a tobacco-free workplace. The Contractor must provide to the Department its policy for the implementation of a tobacco-free workplace.

The Contractor and its subcontractors during the term of this contract may not: 1) perform any work involved in the production, processing, distribution, promotion, sale, or use of tobacco products or the promotion of tobacco companies; or 2) accept revenues from the tobacco industry or subsidiaries of the tobacco industry.

SECTION 29 LIAISON AND SERVICE OF NOTICES

- A. Del Bock, Phone: (406) 444-9478, Fax: (406) 444-0617, E-Mail: dbock@mt.gov is the liaison for the Department.

_____, Phone: (406) __, Fax: (406) __, E-Mail: __, is the liaison for the Contractor.

Jody Frank, Phone: 655-7689, Fax: 655-7693, E-Mail: jofrank@mt.gov; or Lorrie Cofer, Phone: 265-5196, Fax: 265-6919, E-Mail: lcofer@mt.gov or Dana Meldrum, Phone: 444-4139, Fax: 444-0617, E-Mail: dmeldrum@mt.gov, will be services plan liaisons for the WoRC program and Yvette Barnier, Phone: 444-7483, Fax: 444-2547, E-Mail: ybarnier@mt.gov will be service plan liaison for the SNAP E&T program and Carol Carpenter, Phone 444-9291, Fax: 444-0617, E-Mail: ccarpenter@mt.gov will be service plan liaison for the Refugee E&T program.

The County Director is the local liaison for all programs.

These persons serve as the primary contacts between the parties regarding the performance of this contract.

- B. Written notices, reports and other information required to be exchanged between the parties must be directed to the liaison at the parties' addresses set out in this contract.

SECTION 30 CHOICE OF LAW, REMEDIES AND VENUE

- A. This contract is governed by the applicable laws of the State of Montana.

- B. Any remedies provided by this contract are not exclusive and are in addition to any other remedies provided by law.
- C. In the event of litigation concerning this contract, venue must be in the First Judicial District in and for the County of Lewis and Clark, State of Montana.
- D. In the event of a contractual dispute, the Contractor agrees to continue performance under this contract unless the Department explicitly waives performance in writing.

SECTION 31 DISPUTE RESOLUTION PROCESS

The following process is to be used in the event of a disagreement between the Contractor and the Department about the terms of this contract. Written notification by the Contractor providing specific details about the disagreement must first be provided to the Department liaison identified in Section 29. The Department liaison shall attempt to resolve the dispute. If resolution of the disagreement is not obtained then the Contractor may request a review and determination to be made by the division administrator. The Contractor shall provide in writing specific details about the remaining issues that are in dispute. The Contractor may also request an in-person meeting with the administrator to present its reasons or position on the disagreement. If the division administrator cannot resolve the dispute, the reasons for the department's position on the issues in dispute must be presented to the Contractor in writing.

SECTION 32 SCOPE, AMENDMENT AND INTERPRETATION OF CONTRACT

- A. This contract consists of the Contract Table of Contents and the contract provisions on 23 numbered pages and each of the documents listed in Section 4: Attachments A, TANF Work Participation Services, Work Readiness Component or WoRC Program; Attachment B, SNAP E&T Program; Attachment C, Roles/ Responsibilities/Services; and Attachment D, TANF Programs and Projects, which are hereby incorporated by reference; (2) Appendix A, the SDA/Services Plan, which is hereby incorporated by reference (copy on file at the Department) and (3) Appendix B, Requirements and Assurances and HIPAA Requirements forms. In the event of a dispute as to the duties and responsibilities of the parties under this Contract, the documents will be referred to for purposes of clarification in the following order of precedence:

- B. No statements, promises, or inducements made by either party or their agents are valid or binding if not contained herein.
- C. The headings to the sections of this contract are for convenience of reference and do not modify, the terms and language of the provisions to which they are headings.
- D. No contractual provisions from a prior contract of the parties are valid or binding in this contractual agreement.
- E. This contract, except as may be otherwise provided by the terms of this contract, may not be enlarged, modified or altered except by written amendment signed by the parties to this contract.
- F. In the event of a dispute as to the duties and responsibilities of the parties under this contract, the contract along with any attachments prepared by the Department, inclusive of request for proposal, if any, govern over the Contractor's proposal if any.
- G. If any provision of this contract is determined by a court of law to be invalid legally, all other provisions of this contract remain in effect and are valid and binding on the parties.
- H. If any provision of this contract, per se or as applied, is determined by the Department to be in conflict with any federal or state law or regulation then the provision is inoperative to the extent that the Department determines it is in conflict with that authority and the provision is to be considered modified to the extent the Department determines necessary to conform with that authority.
- I. Waiver of any default, breach or failure to perform under this contract is not deemed to be a waiver of any subsequent default, breach or failure of performance. In addition, waiver of any default, breach or failure to perform is not construed to be a modification of the terms of this contract unless reduced to writing as an amendment to this contract.

The parties through their authorized agents have executed this contract on the dates set out below.

MONTANA DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES

By: _____ Date _____
Hank Hudson, Administrator
Human & Community Services Division

By: _____ Date _____

Typed/Printed Name as _____
Title

Address

City, State Zip

Phone Number

Federal I.D. Number

Fax Number

E-Mail Address

APPENDIX A

FFY 2009 and SFY2010

SERVICE DELIVERY AREA/SERVICES PLANS

(COPY ON FILE WITH THE DEPARTMENT)

APPENDIX B

REQUIREMENTS AND ASSURANCES

AND HIPAA REQUIREMENTS FORMS

(COPY ON FILE WITH THE DEPARTMENT)

ATTACHMENTS

ATTACHMENT A

TANF WORK PARTICIPATION SERVICES

WORK READINESS COMPONENT OR WORC

ATTACHMENT B

SUPPLEMENTAL NUTRITION ASSISTANCE
EMPLOYMENT AND TRAINING PROGRAM

ATTACHMENT C

ROLES/RESPONSIBILITIES/SERVICES

ATTACHMENT D

REFUGEE EMPLOYMENT AND TRAINING PROGRAM

ATTACHMENT E

TANF PROGRAMS AND PROJECTS

